

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

MICHAEL KULAKOWSKI,

Plaintiff,

vs.

WESTROCK SERVICES, INC.,

Defendant.

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CASE NO.
3:16-CV-02510

VIDEOTAPED DEPOSITION OF
MICHAEL DAVID KULAKOWSKI
Taken on Behalf of the Defendant
November 7, 2017
Commencing at 9:55 a.m.

Reported by: Jerri L. Porter, RPR, CRR
Tennessee LCR No. 335
Expires: 6/30/2018

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1 Q And did you have to do any jail time for
2 that?

3 A A year in prison.

4 Q Where were you in prison?

5 A Started out in Puerto Rico and ended up in
6 Allenwood, Pennsylvania.

7 Q Any other time you've been in jail?

8 A Not that I recall, ma'am.

9 Q What about related to your habitual traffic?

10 A I did time for that.

11 Q How much time?

12 A They gave me four years. I served
13 approximately 28 months of that in the Sumner County
14 jail.

15 Q So you served 28 months in jail for driving
16 without a driver's license?

17 A Yes, ma'am.

18 Q There was no other charge related to it?

19 A No, ma'am.

20 Q Any other convictions?

21 A Not that I recall, ma'am.

22 Q Have you ever given sworn testimony before,
23 like in an affidavit or --

24 A Not that I recall ever doing.

25 Q Have you ever been a party to a lawsuit

1 after church and all that. So if I missed, I'd stay
2 and cook. I like cooking. It could be a hobby, I
3 guess you could say, too. I'm sorry.

4 Q How often do you cook meals for the family?

5 A I still cook for the grandkids, you know,
6 every weekend.

7 Q Was there ever a time that you didn't cook
8 for the kids on the weekend?

9 A Not -- not that I recall for any kind of,
10 you know -- unless maybe I was out fishing or
11 something like that, of course. You know, if they
12 ask me for something to eat, I'm going to fix them.

13 Q You're currently employed; is that correct?

14 A Yes, ma'am.

15 Q And you're employed at WestRock?

16 A Yes, ma'am.

17 Q How long have you been employed at WestRock?

18 A I think October 10th, should be 12 years
19 full time. I quit a full-time job to go temporary
20 to work there. I didn't get hired like I was
21 supposed to. For a little over a year I worked
22 temp.

23 Q So, October 2005, is that about when you --

24 A Yes, ma'am, if I'm correct.

25 Q Okay. During that time, have you ever

1 that you had had a felony drug charge, correct?

2 A Correct.

3 Q Okay. Now, who --

4 A I've got marked yes on the felony
5 conviction.

6 Q I understand that. The next question says,
7 if yes, explain. And you wrote DUIs?

8 A Okay.

9 Q But you don't remember having any DUIs?

10 A I don't remember them.

11 Q You did not write felony drug charge, but
12 you recall having a felony drug charge for which you
13 went to prison. Is that correct?

14 A That is correct. Tommy Whited asked me how
15 long any charges like that had been, and I told him
16 about the marijuana charge back in the -- when I was
17 22 or 23 years old. And he said, well, I wouldn't
18 even put that down, so I did what he told me to do.

19 Q Okay. So, did Tommy -- Tommy Whited, he's
20 the one that hired you at WestRock?

21 A Yes, ma'am.

22 Q What position did he hire you into?

23 A Material manager.

24 Q What position are you in now?

25 A Shipping and receiving manager.

1 is my boss and I'm told Larry Eden is my boss. I
2 guess Larry Eden is my boss.

3 Q Okay. Well, why don't you run me through
4 the hierarchy at the fulfillment center. So, at the
5 top of the food chain there's a general manager; is
6 that correct?

7 A There is a new general manager. I believe
8 his office is at the plant.

9 Q Okay.

10 A I've only seen him twice.

11 Q All right. What's his name?

12 A I don't know his last name. I know his
13 first name is Al.

14 Q Okay. Underneath the general manager,
15 there's a plant manager at the fulfillment center?

16 A Before I was out with my back, Keith Hall
17 was supposed to be the plant manager at fulfillment
18 and plant manager at the plant.

19 Q Then who's under the plant manager?

20 A I don't guess there'd be anybody. Michael
21 White.

22 Q What's Michael White's position?

23 A It used to be he ran the fulfillment, the
24 whole years I was there. But I can't honestly
25 100 percent tell you what his title is now with all

1 the changes. Everybody is -- I'm not trying to be
2 smart. I'm just -- I don't know the titles anymore,
3 and I don't think a lot of people do.

4 Q Do you know Larry Eden's title?

5 A His e-mails coming to me say shipping
6 manager, and then my shipping manager e-mail
7 disappeared. It just says Michael Kulakowski.

8 Q Was that over the last year after Tommy
9 left?

10 A Over the last six months, yes.

11 Q Okay.

12 A Larry was plant manager, from my
13 understanding, 40-something years, and when all of
14 this happened, he, I guess, demoted down to shipping
15 manager.

16 Q What about when Tommy was still with the
17 company? He was the general manager?

18 A Yes, ma'am.

19 Q And then Larry was the plant manager?

20 A Yes, ma'am.

21 Q Then what was Mike White's position then?

22 A I always thought he was the plant manager at
23 fulfillment.

24 Q Okay. So, was Larry Eden plant manager at
25 the other facility?

1 A That was my understanding.

2 Q All right. So Larry Eden was located at the
3 other plant?

4 A Yes, ma'am.

5 Q And Mike White was located at the
6 fulfillment center?

7 A Yes, ma'am.

8 Q Was Larry Eden ever over at the fulfillment
9 center?

10 A Just for visits or meetings or something
11 like that.

12 Q How often would he be there?

13 A In reality, you could have -- you could go
14 two or three months without seeing him over there.
15 I mean, when Tommy Whited was still there and the
16 boss and having a very angry discussion about
17 something, Larry would rush over there real quick.

18 Q So you'd see him -- you'd see Larry at the
19 fulfillment center once every three or four months?

20 A Yeah. I mean, it could go that long without
21 seeing him over, yes, it could.

22 Q Okay. And how long would he typically be
23 there at the fulfillment center?

24 A Couple of hours.

25 Q And he'd typically come over there when

1 production didn't get run, and so on, so on. They
2 had meetings in the mornings over that.

3 Q And it was Tommy's ultimate responsibility
4 to enforce all of the company's policies and
5 procedures?

6 A Yes, ma'am.

7 Q What about Terri Henley? Who is Terri
8 Henley?

9 A HR out of -- human resource out of Norcross,
10 Georgia. I believe that's where she's stationed.

11 Q So she's like a divisional HR director or
12 unit HR director?

13 A If I'm correct. I've only seen her very few
14 times.

15 Q Well, she's helped you in the past with work
16 comp issues, right?

17 A Not that I know of. I never drewed workers'
18 comp.

19 Q But did you have to take -- you've taken
20 leave, though. I thought you were hurt. You hurt
21 your back before in the past at --

22 A Yes, but it --

23 Q -- at WestRock?

24 A I didn't turn it in as workman's comp
25 because Tommy said he'd fire me, so -- and he'd say

1 so...

2 BY MS. DOHNER SMITH:

3 Q So there's corporate HR people outside of
4 Gallatin, Tennessee?

5 MS. COLLINS: Objection to form.

6 BY MS. DOHNER SMITH:

7 Q As far as you know?

8 A Yes, ma'am, as far as I know.

9 Q Okay. Throughout your employment with the
10 company, you've received copies of the employee
11 handbook, correct?

12 A Apparently.

13 Q And the company's code of conduct? I'm
14 going to ask you to take a look at these documents.
15 Are these all documents you signed, acknowledging
16 your receipt of the company handbook and code of
17 conduct?

18 A That looks like my signature.

19 MS. DOHNER SMITH: Let's go ahead and
20 mark that Number 3.

21 (Marked Exhibit No. 3.)

22 BY MS. DOHNER SMITH:

23 Q I'm going to ask you to take a look at this
24 document. Do you have any reason to dispute that
25 this is the company's 2011 employee handbook?

1 MS. COLLINS: These aren't Bates
2 labeled, Exhibit Number 3. Have these been
3 produced?

4 MS. DOHNER SMITH: Yeah. These were in
5 the packet that I gave you when you came in.

6 MS. COLLINS: I didn't get a packet
7 when I came.

8 MS. DOHNER SMITH: When you came to my
9 office, I handed you a packet.

10 MS. COLLINS: Oh, yeah. Okay. They
11 just weren't Bates labeled?

12 MS. DOHNER SMITH: They should have
13 been. She may have just printed off a copy that
14 wasn't Bates labeled.

15 MS. COLLINS: Okay.

16 BY MS. DOHNER SMITH:

17 Q Do you have any reason to dispute this was
18 the company handbook in 2011 that was issued?

19 A I mean, I don't guess I can dispute it. I
20 don't remember it, but...

21 Q You signed a form stating that you received
22 it, correct?

23 A I guess so, ma'am. There's my signature.

24 MS. COLLINS: Objection to form.
25

1 BY MS. DOHNER SMITH:

2 Q Okay. I'll have you take a -- if you kind
3 of go through, down at the bottom there's going to
4 be some pages that are listed as Page 1, Page 2. Or
5 actually just -- let's go to the -- you can just go
6 to the second page. You don't even have to count.
7 Just -- just flip over the top page.

8 A Okay. I'm sorry.

9 Q This document here on the second page
10 requires compliance with the provisions of the
11 handbook. Any reason to dispute it says that?

12 A No, ma'am, I guess not.

13 Q Okay. And it also says that violation could
14 lead to disciplinary action, including termination.
15 Any reason to dispute that?

16 A No, ma'am.

17 Q Okay. If you turn to -- a few pages back,
18 up at the top it says Section A.1, Employment
19 Policies, and at the bottom it actually says Page 2.
20 Keep flipping. I'll tell you when to stop.

21 A (Witness complies.)

22 Q Turn another page.

23 A (Witness complies.)

24 Q Or turn one page back. My eyes are all
25 funny. I can't see right.

1 Does that say equal opportunity -- Equal
2 Employment Opportunity Policy there down at the
3 bottom?

4 A Yes, ma'am.

5 Q And if you flip the page, the second
6 paragraph says, "If an employee has a question or
7 concern about, or is a victim of any type of
8 discrimination in the workplace, he or she must
9 contact his or her divisional HR director or call
10 the compliance hotline," and it provides a number;
11 is that correct?

12 A Yes, ma'am.

13 Q Okay. And the company actually has a
14 corporate hotline for employees to report issues; is
15 that correct?

16 A This says it does.

17 Q Okay. And it's also posted at the
18 fulfillment center in the breakroom, correct?

19 MS. COLLINS: Objection to form.

20 BY MS. DOHNER SMITH:

21 Q The compliance hotline?

22 A I'm sure it is now.

23 Q Well, it's been posted for quite some time,
24 hasn't it?

25 MS. COLLINS: Objection to form.

1 THE WITNESS: I don't know.

2 BY MS. DOHNER SMITH:

3 Q If you keep turning pages down at what -- it
4 says Page 7 at the bottom. There's a big page there
5 that says, "Compliance Hotline," correct?

6 A Yes, ma'am.

7 Q And it says "Four ways to report." Is that
8 correct?

9 A Yes, ma'am.

10 Q And it says you can report by phone, and it
11 provides a telephone number; is that correct?

12 A Yes, ma'am.

13 Q And number 2, you can make a report by mail,
14 and it provides an address; is that correct?

15 A Yes, ma'am.

16 Q And that's an address in Norcross, Georgia,
17 correct?

18 A It is.

19 Q And then it says number 3 is on the
20 intranet; is that correct?

21 A Yes. Yes, ma'am.

22 Q And then number 4, via the internet; is that
23 correct?

24 A Do I have an internet?

25 Q No. I'm saying that there's four ways that

1 you can make reports --

2 A Okay.

3 Q -- to the corporate office, correct?

4 A Okay. Yes, ma'am.

5 Q All right. Now, over on the left, if you go
6 down, one, two, three, four paragraphs, the second
7 to the last paragraph, it says, "All communications
8 via the RockTenn Compliance Hotline may be made on
9 an anonymous basis." Correct?

10 A Uh-huh. Yes, ma'am.

11 Q Okay. Do you have any reason to dispute
12 that this page has been posted at the facility?

13 MS. COLLINS: Objection to form.

14 BY MS. DOHNER SMITH:

15 Q Prior to 2016?

16 MS. COLLINS: Same objection.

17 THE WITNESS: Are you asking me if this
18 was -- do I think this was posted in 2016 or before
19 is what you're asking me?

20 BY MS. DOHNER SMITH:

21 Q If other individuals testify that this has
22 been posted throughout the plant well in advance of
23 2016, do you have any evidence to dispute that?

24 MS. COLLINS: Objection to form.

25 You can testify about what you know

1 about, not what other people know about or what
2 other people have testified about.

3 THE WITNESS: I don't know. You know I
4 mean?

5 BY MS. DOHNER SMITH:

6 Q Okay. Go ahead and flip to the next page.
7 And this provides a code of business conduct and
8 ethics, correct?

9 A Yes, ma'am.

10 Q It sets out standards of behavior required
11 of all employees; is that correct?

12 A Correct.

13 Q And it states you can call the divisional HR
14 director or the legal department if you have
15 questions regarding the code of conduct, correct?

16 A Correct.

17 Q And in here, it includes as violations of
18 the code of conduct, falsifying any document; is
19 that correct?

20 A I guess --

21 Q We can go down. If you look at the little
22 dots, one, two, three, four, five, six,
23 "Falsification or misrepresentation of any
24 documentation."

25 A Okay. Yes, ma'am.

1 Q All right. The next one says, "Violation of
2 the company's anti-harassment/nondiscrimination
3 policies."

4 So that's a violation of the code, correct?

5 A Correct.

6 Q All right. Two more -- let's see. One,
7 two -- I'm trying to count. One, two, three,
8 four -- four more down, "Unprofessional behavior,
9 including the use of profanity and offensive
10 language."

11 That's a violation of company policy,
12 correct?

13 A Correct.

14 Q Four more down, "Threatening another
15 individual with bodily harm or assaulting another
16 individual at any time while on company property,
17 during working hours, or while engaged in company
18 business."

19 That is a violation of company policy,
20 correct?

21 A Correct.

22 Q A few more down. It's actually, one, two,
23 three, four, five from the bottom. "Fighting,
24 horseplay, practical jokes, or pranks while at the
25 work site or engaged in company business."

1 That's a violation of company policy,
2 correct?

3 A Correct.

4 Q If you turn to the next page, down there at
5 the bottom it says "Anti-harassment Policy,"
6 correct?

7 A You said next page, correct?

8 Q It should say Page 10 at the bottom.

9 A Oh, I was on that other one. I'm sorry. My
10 fault. I went to 9, the next. I'm on Page 10 now.

11 Q Okay. Down there it says, "Anti-harassment
12 Policy." Is that correct?

13 A I see that.

14 Q And it says, "It is company policy to
15 maintain a working environment free from unlawful
16 harassment."

17 A Correct.

18 Q "All employees must treat each other in a
19 manner free from verbal or physical harassment." Is
20 that correct?

21 A Yes, correct.

22 Q And if you turn the page, now it should say
23 Page 11 at the bottom.

24 A Okay.

25 Q It says, "Employees who believe they have

1 been harassed must take the following immediate
2 action."

3 And if you see at the second dot there, it
4 says you should call the divisional HR director or
5 the compliance hotline, and it provides a number,
6 correct?

7 A Correct.

8 Q In the second two to the last dots it says
9 if harassment continues, you should contact a
10 divisional HR manager or the compliance hotline, and
11 it provides the compliance hotline number, correct?

12 A Correct.

13 Q If you turn to the next page, Page 12, it
14 says at the bottom. The company has an
15 anti-violence policy, correct?

16 A Right. I see that.

17 Q Okay. And down there at the bottom at the
18 very last sentence, it says if an employee is
19 assaulted or witnesses an assault, he or she should
20 report it, and it provides that you can report it to
21 the HR director -- the divisional HR director or by
22 calling the compliance hotline, correct?

23 A I see that.

24 Q If you turn to -- actually, you're going to
25 have to thumb through a ways. It says Section A.5

1 at the head -- at the top right-hand corner. It
2 says, "Payroll, Compensation and Reimbursements
3 Policies."

4 MS. COLLINS: Does it have a page
5 number at the bottom?

6 MS. DOHNER SMITH: It says Page 1 at
7 the bottom again. I think it goes through sections
8 instead of just being...

9 BY MS. DOHNER SMITH:

10 Q Are we all on the same page, or no?

11 A I'm back at Page 1 back here, but apparently
12 I'm --

13 Q Does it say A.5 here?

14 A A.4.

15 Q A.4? Keep going to A.5.

16 A (Witness complies.)

17 I'm trying. I'm sorry.

18 Q It's okay.

19 A Okay. I'm at A.5.

20 Q All right. Does it say, "Timekeeping
21 Records" up there at the top?

22 A Yes, ma'am.

23 Q All right. And if you first -- if you read
24 that first sentence, it says that employees are
25 responsible for recording their hours worked each

1 down via the timekeeping system. Is that correct?

2 A I've read that. I read that.

3 Q So employees are required to punch in and
4 out for work, they're required to keep their time,
5 correct?

6 A Yes, ma'am.

7 Q Okay. And at the bottom it says, falsifying
8 time records may be subject to immediate
9 termination, just above paycheck distribution.

10 A Correct.

11 MS. DOHNER SMITH: Do you need to take
12 a break? I see you kind of rubbing your -- we can
13 take a quick break if you want.

14 THE WITNESS: That would be very nice,
15 if you didn't mind.

16 MS. DOHNER SMITH: Okay. We can.

17 VIDEOGRAPHER: We are going off the
18 record. The time on the monitor is 11:31 a.m.

19 (Recess observed.)

20 VIDEOGRAPHER: We are back on the
21 record. The time on the monitor is 11:39 a.m.

22 MS. DOHNER SMITH: Before I forget,
23 let's go ahead and mark the 2011 handbook as
24 Number 4.

25 (Marked Exhibit No. 4.)

1 BY MS. DOHNER SMITH:

2 Q Mr. Kulakowski, I'll remind you that you are
3 under the same oath that you gave at the outset of
4 the deposition.

5 Do you understand that?

6 A Yes, ma'am.

7 Q Is there anything from your previous
8 testimony that you need to change or revise?

9 A Not -- no, ma'am.

10 Q We're not going to go through this whole one
11 either. I'm just going to ask you to take a look at
12 this and tell me if you have any reason to dispute
13 that this is the company handbook that was put out
14 in 2013.

15 MS. COLLINS: This one says 2011.

16 MS. DOHNER SMITH: It's revised 2013 at
17 the top page. The only -- I think the only thing
18 they added is like there's several pages at the
19 beginning.

20 BY MS. DOHNER SMITH:

21 Q Do you have any reason to dispute that's the
22 handbook that was put out in 2013?

23 A I don't dispute it. I haven't seen it, but
24 I don't dispute it.

25 MS. DOHNER SMITH: We'll go ahead and

1 mark that Number 5.

2 (Marked Exhibit No. 5.)

3 THE WITNESS: Thank you.

4 BY MS. DOHNER SMITH:

5 Q During the course of your employment, you
6 were also provided with copies of the plant rules;
7 is that correct?

8 A Yes, ma'am.

9 Q I'll have you take a look at this document.
10 It's a two-page document. Is that your signature on
11 both sheets evidencing that you received a copy of
12 the plant rules?

13 A It does look like my signature, correct.

14 Q Okay. And if you'll look down there,
15 number 3 provides that "no team member shall falsify
16 any time card or any other record." Is that
17 correct?

18 A Correct.

19 Q And number 6 prohibits fighting; is that
20 correct?

21 A Correct.

22 Q Number 7 prohibits abusive language; is that
23 correct?

24 A Correct.

25 Q Number 12 prohibits horseplay; is that

1 correct?

2 A Correct.

3 MS. DOHNER SMITH: Let's go ahead and
4 mark that Number 6.

5 (Marked Exhibit No. 6.)

6 THE WITNESS: Thank you.

7 BY MS. DOHNER SMITH:

8 Q I'll have you take a look at another
9 document. If you'll take a look at the last page
10 there, is that your signature on the last page?

11 A It looks like my signature, correct.

12 Q And this is the company's attendance policy,
13 correct?

14 A Looks like it, yes, ma'am. Correct.

15 Q And on the first page it says "Time
16 Records." And it says, "The time card is to be
17 punched in when reporting to work and punched out
18 when leaving work." Correct?

19 A Correct.

20 Q And it provides disciplinary action for not
21 following the guidelines down there at the bottom?

22 A Yes, ma'am.

23 Q The company also has what's called call-in
24 pay, correct? If you're called in to work outside
25 of your normal shift, you get four hours of pay --

1 A Four hours pay, yes, ma'am.

2 Q -- regardless of whether or not you're there
3 for four hours, correct?

4 A Yes, ma'am. Yes, ma'am.

5 Q Now, if you're there more than four hours,
6 you get paid for however long you've worked.

7 A Yes, ma'am.

8 Q But if, for example, you're called back to
9 work and you only work two hours, you get paid
10 four hours, correct?

11 A Correct.

12 MS. DOHNER SMITH: Let's go ahead and
13 mark that Number 7.

14 (Marked Exhibit No. 7.)

15 THE WITNESS: Thank you.

16 BY MS. DOHNER SMITH:

17 Q It's my understanding that you are suing the
18 company for sexual harassment. When did you first
19 believe you were subject to sexual harassment?

20 MS. COLLINS: Objection to form.

21 THE WITNESS: Right at eight years ago,
22 might be nine.

23 BY MS. DOHNER SMITH:

24 Q Nine years ago?

25 A Because of this year here.

1 Q So, nine years ago you believed you were
2 subject to sex harassment. When you were sitting
3 there in the workplace, you thought to yourself,
4 I've been sexually harassed?

5 MS. COLLINS: Objection to form.

6 THE WITNESS: Yes, ma'am.

7 BY MS. DOHNER SMITH:

8 Q Okay. All right. Who do you believe has
9 sexually harassed you?

10 A Tommy Whited.

11 Q Is there anyone else who has sexually
12 harassed you?

13 A Physically, just Tommy Whited.

14 Q Has anybody else sexually harassed you?

15 A No, ma'am. Just Tommy Whited.

16 Q All right. What did Tommy Whited do to
17 sexually harass you? What I want you to do is go
18 through and list out every incident you can
19 remember.

20 A Years back, off and on for years, going to
21 the bathroom, unzipping his zipper, pulling his
22 penis out and telling me to come in the bathroom.
23 If I want a raise or want to keep my job, come in
24 there and do what I have to do to keep my job or get
25 a raise.

1 MS. COLLINS: Objection to form.

2 THE WITNESS: If I have to answer this,
3 if he's not part homosexual, he's got the
4 tendencies.

5 BY MS. DOHNER SMITH:

6 Q Okay. What other incident can you remember
7 where he did this?

8 A Like I said, there's probably eleven of them
9 over the eight-year period.

10 Q I'm asking for specific incidences. Any
11 other incident you can remember?

12 A There was ten of them, but date-wise, I
13 can't particularly give you the date with all of my
14 documents getting destroyed.

15 Q Do you recall any other incident, where you
16 were, what you were doing, what he said?

17 A Well, the sexual -- I call it sexual --

18 Q We're talking just right now about the
19 unzipping of the pants, pulling out the penis, and
20 telling you to suck his dick.

21 A The bathroom down at the front offices where
22 he stayed in Susan's office a lot, he did it a
23 few -- three to four times at that bathroom
24 entrance.

25 Q Do you remember specific -- any time period

1 Tommy, so that's why I reported them to him.

2 Q Who is Jeb Bell?

3 A I think he's a big wheel with WestRock.

4 I've never met the man.

5 Q Have you ever, ever met anybody who is above
6 Tommy?

7 A Some Tom Perdine (phonetic) or whatever was
8 in one of the meetings.

9 Q Tom Pedine?

10 A Pedeen (phonetic), Pedine, or something. I
11 thought he was Tommy's boss. He's over -- he was
12 over some multi -- he was a big wheel. I don't know
13 how big.

14 Q Okay.

15 A He was big enough to probably shut a plant
16 down. So, to me, he's big.

17 Q So, anybody other than Larry Eden that you
18 ever reported these incidents to?

19 A Then with the zipper, Larry Eden.

20 Q Okay. You never called the hotline or
21 called corporate HR or notified corporate HR; is
22 that correct?

23 A I did not. Did not know the number was in
24 there; I'm sorry.

25 Q Okay. Do you remember a meeting, an

1 in that office, when I was telling the story about
2 what happened, and Tom Pedine saying, well, if you
3 was that scared of him and didn't like it, why
4 didn't you go get another job? And so that's when I
5 made a decision that I can't get anything done, I
6 need to go talk to somebody.

7 Q What do you mean, you can't get anything
8 done?

9 A Because I reported every incident to every
10 management there was, and nobody would do anything
11 about it.

12 Q Well, after you reported it to Tom Pedine
13 and corporate HR, Tommy got fired, right? Tommy is
14 no longer employed, correct?

15 A He's not employed, but I don't know if it's
16 because of me or not.

17 Q Well, the first time you ever told anybody
18 from corporate, corporate HR, Tom Pedine, about
19 these incidents, about Tommy, it was August of 2016,
20 correct?

21 A If I -- what's in my notes.

22 Q Well, do you have -- did you take notes from
23 that day?

24 A When Terri, whoever that Terri girl is,
25 called me on the phone and started asking me

1 questions, and I told her the story, and then when I
2 come back to work and I come down and had a meeting.
3 And like I said, I'm telling them the story about
4 all of these years, everything what's happening,
5 nobody has done anything about it. Then he came in
6 and then he made the statement, you know, well, why
7 didn't you go get another job if you was that scared
8 of him and all of that.

9 Q I'm asking, is this about August of 2016?

10 A It could be.

11 Q Okay.

12 A Could be.

13 Q And then a couple of weeks later, Tommy was
14 no longer employed at WestRock, correct?

15 A Correct.

16 Q Do you know why Tommy is no longer employed
17 at WestRock?

18 A No, I do not.

19 Q But shortly after you reported these
20 incidents, he was no longer employed, correct?

21 A Well, the way I look at it, eight years I
22 reported it to management and done and -- but when
23 it got reported then, apparently he was dismissed
24 for some reason.

25 Q Okay. So, shortly after you finally

1 reported to corporate HR and somebody above Tommy,
2 Tommy is no longer employed.

3 MS. COLLINS: Objection to form.

4 BY MS. DOHNER SMITH:

5 Q Correct?

6 A Correct.

7 Q All right. Any other times that Tommy
8 pulled down his zipper, told you to suck his dick?

9 A I remember them incidents.

10 Q Okay. Any others you remember?

11 A Of the zipper that's -- you know, that's all
12 I can remember of them, of the zipper.

13 Q Okay. Anything else Tommy did to sexually
14 harass you?

15 A I'd be at my desk and he'd come sneak up
16 behind me and reach his hand down and grab a handful
17 of my balls and squeeze them hard as he could until
18 I couldn't breathe.

19 Q All right. Anything else that he did to
20 sexually harass you?

21 A Come up behind me and he'd kick me so hard I
22 come off the ground and can't breathe, and then
23 threaten to fire me because I'm on the ground, can't
24 breathe. Kick me so hard where it flipped me over
25 the desk and then threatened to fire me. I got

1 A He had all -- lumped up and everything else.

2 Q All right. And we're going to go through
3 each of these. I'm just trying to make sure we have
4 all of them out.

5 You said he told you to suck his dick. Was
6 that outside the context of him pulling down his
7 zipper?

8 A Yeah. There was a lot of times he told me
9 to suck his dick, you stupid motherfucker, all of
10 that, without grabbing the zipper, being there at
11 the bathroom.

12 Q So he'd say suck my dick, you stupid
13 motherfucker --

14 A Yes.

15 Q -- or were those separate? He'd say suck my
16 dick and call you --

17 (Overlapping speech.)

18 A No. It would be the same sentence. Be the
19 same sentence. I'm sorry for the language.

20 Q I've heard it all before.

21 What was the -- what was -- you said
22 something about going home and screwing your wife.
23 What was that?

24 A He was always trying to make me mad, saying
25 or teasing, or however he wants to play it, always

1 talking about, you know, why don't you make sure you
2 stay over a little bit, load the truck, or get your
3 guys to load the truck so I can go home and fuck
4 your wife for a while like I usually do. Trying to
5 make me mad, which it did upset me.

6 Q Okay. Anything else he did to sexually
7 harass you?

8 A Smack me on the ass, grab my balls. I don't
9 know what else.

10 Q Anything else that you believe he did that
11 was sexually harassing to you?

12 A I guess not, ma'am. I mean, I don't know.

13 Q All right. Let's talk about, you said he
14 grabbed and squeezed your balls. When did that
15 happen?

16 A First year all of this started I guess would
17 be about nine years ago, I'd say approximately.
18 Without my documents being 100 percent accurate, I
19 can't help it, but...

20 Q What documents do you have?

21 A I had a bunch of documents that they got in
22 my desk and shredded. I mean, I know I had
23 68 documents besides the ones I have wrote down at
24 the house of times, dates --

25 (Overlapping speech.)

1 Q How many years do you think you were
2 documenting?

3 A No less than seven years. I had 68 that I
4 thought was real good documents, but, you know, I --

5 Q Why did you start documenting these
6 incidents?

7 A I can't honestly say that, except that, you
8 know, one day I thought I might need it if I got
9 fired for something or for whatever reason. That's
10 the only way I know how to answer that, is -- I know
11 that wasn't the right thing to be done, to be done
12 to you. So I started writing it down and who was
13 there and where it happened and the date it
14 happened. So I started documenting it.

15 Q But prior to August of 2016, you never sent
16 those documents to corporate, anyone at corporate
17 WestRock?

18 A No, ma'am, I did not. I gave corporate the
19 documents I had in that meeting that day.

20 Q Let's go back and talk about the grabbing
21 and squeezing of the balls. When did that first --
22 how many times has that happened?

23 A Like I said, I can't 100 percent be
24 positive, but I'm going to say over an eight-year
25 period, 192 times that I was either grabbed,

1 A I'm not going --

2 (Overlapping speech.)

3 Q Did anyone witness it?

4 A I think Willie White was in there. I think
5 Donnie Taylor was in there, I believe.

6 Q Did you report this incident to anybody
7 outside of Gallatin?

8 A No.

9 Q All right. The five incidents in 2015, take
10 me through each of those.

11 A One of the incidents, I was out on the
12 floor, either counting product or something, when he
13 snuck up behind me and grabbed me and just held on
14 until I about cried or teared up, however you
15 want -- people think is funny and think I did it.

16 But I went down to my knees, of course, and
17 leaned on the bales of boxes that we make. And
18 after he had his little fun of cussing me and
19 calling me a pussy and this, that, and the other, I
20 finally got up and wobbled to the shipping office
21 and tried to continue to do my job.

22 Q All right. Did you report that incident to
23 anybody?

24 A No, I did not.

25 Q All right. What's the second time it

1 witnesses. Terry Stafford, supervisor; J.C. Cox,
2 which was the maintenance supervisor; Susan Hart, I
3 think, was around. And I told Larry, you know, I'm
4 sick of it, I'm sick of it.

5 Q What did Larry say?

6 A He said, Kuli, you know, if you -- as long
7 as you're working at this company, he's going to
8 continue harassing you or grabbing you or hitting
9 you or doing something to you as long as you're
10 here.

11 Q He said he's going to continue harassing
12 you? He used the word harassing?

13 A Yes. He said he's going to continue
14 harassing you, cussing you, kicking you, grabbing
15 you, hitting you. He's going to continue doing
16 everything to you as long as you work here.

17 Q Anybody hear you make that report?

18 A I think Terry Stafford, and I believe
19 J.C. Cox both heard that.

20 Q Okay. Did you report that to anybody
21 outside of Gallatin?

22 A No, ma'am.

23 Q What about the fifth time in 2015?

24 A It's probably later on, somewhere around
25 maybe August. That one, the best of my

1 recollection, would have been in the shipping
2 office, grabbing a -- he grabbed my -- a handful of
3 balls, and I was trying to jerk away and he just --
4 when he went to let go, he slung me like that and I
5 flipped over a chair and went upside down up against
6 the wall.

7 There was probably Willie White, Donnie
8 Taylor, Terry Stafford, and J.C. Cox, and the white
9 staffing woman that has an office next to me. They
10 was all in there when he did that. I think it was
11 Heather in there.

12 Q Did you report that incident to anybody?

13 A I figured there was two supervisors sitting
14 there. So, no, I can't say that I did.

15 Q Did you report it to anybody outside of
16 Gallatin?

17 A No, I did not.

18 Q Let's talk about the three to four times you
19 said it took place in January of 2016. Tell me what
20 you remember of the first incident.

21 A One of them was around the 16th, something
22 like that, in the shipping office doing bills. I
23 was leaning over. A lot of times it's quicker to
24 stand up and try to do something real quick, a bill
25 on the computer. Donnie Taylor was with me.

1 He snuck in. Apparently there was a
2 broomstick in the corner, and he took that and just
3 swung it between my legs and caught me in my
4 privates. He took the stick and he hit me across
5 the back, and I think he hit me across my jaw area
6 right here (indicating). Cussed and called me names
7 like always.

8 If you want the exact words, it was
9 mostly -- 99 percent of the time it was called, you
10 stupid motherfucker, get up and get back to work
11 before I fire you. And he loved calling me a stupid
12 fucking Polak.

13 And I'm sorry, ladies, I have to use
14 language like that. My mother -- I'm not
15 disrespecting y'all, but that's what he said.

16 Yeah, I am Polish, and I didn't particularly
17 care about being called a stupid fucking Polak all
18 the time either, and told him, reported it to him,
19 and everybody else about that. So I didn't like it,
20 but it didn't stop nothing. I did not report it to
21 anybody outside of Gallatin.

22 Q All right. The incident on January 16th,
23 2016, did you report that specific incident to
24 anybody?

25 A Just the ones that was in there. I mean,

1 no, I did not. No.

2 Q You said he called you a stupid fucking
3 Polak. Did you report that to somebody?

4 A Just every management man there is, at
5 either facility, because he did it in front of all
6 of them, and --

7 Q Well, who --

8 A -- I did rephrase -- you know, Tom, I don't
9 like -- you know, I don't like that, and he said, I
10 don't give a fuck what you like. If you don't like
11 it, I can fire you and you can get out of here. So
12 that's how it was phrased to me.

13 Q Who did you report it to?

14 A Larry -- you know, Larry Eden -- going down
15 the chain of command, you've got the general
16 manager, which is Tommy Whited, Larry Eden, which is
17 plant manager. 90 percent of the time I reported
18 all of my stuff to the plant manager, which is Larry
19 Eden.

20 Q I'm asking you who you reported Tommy
21 calling you stupid fucking Polak to. Was there a
22 person, a member of management that you reported
23 that to?

24 A Larry Eden.

25 Q Okay. When did you report that?

1 A Date-wise, I can't say I did. But, I mean,
2 I reported it to him, you know, probably on the
3 phone or -- you know, we used to fish tournaments
4 together and stuff on weekends. A lot of times I'd
5 try to talk to him out at the tournament fishing,
6 too. I was in the club tournaments.

7 Q How many times did you tell Larry that he
8 called you stupid fucking Polak?

9 A I don't know, ma'am. I'm going to say 40.

10 Q Forty in 2013?

11 A No, ma'am. I'm going to say 2013 -- I was
12 trying to just say, you know, give it the best
13 figure I can, because I can't come up with exact
14 dates and try to say 40 in that year period.

15 Q Are you meaning that that's how many times
16 Tommy did it or you reported to Larry 40 times he
17 called me stupid fucking Polak, he called me stupid
18 fucking Polak? You called him 40 times to say --

19 A I probably called Larry at least 20 times,
20 told him he called me a stupid fucking Polak.

21 Q Okay. Did you report it to anybody outside
22 of Gallatin?

23 A No, ma'am.

24 Q Did you report it to anybody else other than
25 Larry?

1 A Helen Kendall heard it, standing there when
2 I was up doing paperwork, getting paperwork for her,
3 taking it over there for whatever reason, which we
4 thought -- I thought was human resource.

5 Q Anybody else? Anyone that you would have
6 reported it to?

7 A Michael White has heard him talk to me like
8 that.

9 Q Anybody --

10 A Keith Hall. And me telling Tommy directly
11 that I do not like that. Larry Eden.

12 Q Did you report it to anybody? Or you're
13 just --

14 A Not outside of Gallatin.

15 Q Okay. Other than Larry, did you actually
16 report it to anybody and call them and say, hey, I
17 don't like this, or walk up and say, hey, he called
18 me this, I want him to stop?

19 A I guess I have to answer no, because that's
20 the only way I know how to answer that because I
21 don't remember specifically -- specific dates.
22 After you get -- never mind.

23 Q All right. So, we're talking about the
24 three to four times in 2016 where Tommy grabbed you
25 or hit you in the balls. We've got the one incident

1 and get your ass back to work or I'm firing you.

2 I heard the firing word for -- I don't know,
3 3,000, 4,000 times or something, but I was still
4 terrified of it.

5 Q All right. So did you report this incident
6 in or about January 28th to anybody?

7 A Not outside of Gallatin.

8 Q Okay. Did you report it to anybody at
9 Gallatin?

10 A I don't recall reporting that one, ma'am.

11 Q Okay. All right. So that's a second. You
12 said there were three or four. What's the next one
13 you remember?

14 A There had to be just three.

15 Q Okay.

16 A Because I know the 16th was one, the
17 28th was one. I want to say the third one would
18 have had to have been before then, the first week
19 of -- somewhere right in the first or up in there.

20 Q Okay. So first week of January?

21 A Somewhere right up in that first few days of
22 January.

23 Q Okay.

24 A Actually, the best of my memory, ma'am, I
25 was on the floor. When he come by, he hollered at

1 A Right.

2 Q That was kind of one category. We got some
3 other incidents in there. Any other incidents of
4 grabbing or squeezing your balls that you recall?

5 A I think, if I'm correct, ma'am, that the
6 grabbing and the squeezing with the hand physically,
7 I think we've covered it.

8 Q Okay. So the second thing, then, was kicked
9 from behind and made you fall to the ground.

10 A Yes, ma'am.

11 Q Okay. So, let's kind of do the same thing.
12 Tell me 2000 -- you know, when did that start and
13 tell me the years and how many happened each year
14 and we'll go through them each.

15 A If I'm correct, I'm pretty sure I think
16 2013, if my math is correct. Let's see, that's not
17 early enough. Let's see.

18 Probably 2009, probably in January.

19 Q Okay. Any times in 2010?

20 A I want so say there's probably, without
21 telling a lie, five.

22 Q Five in 2010?

23 A Yes, ma'am.

24 Q How many in 2009?

25 A I'm honestly wanting to tell you three,

1 ma'am.

2 Q Okay. 2011?

3 A Seven.

4 Q 2012?

5 A Six.

6 Q 2013?

7 A I'm sorry. I'm trying to count on my
8 fingers to keep things. Started building up a
9 little bit then. I want to go eight.

10 Q 2014?

11 A In the whole year, 12.

12 Q 2015?

13 A Probably ten.

14 Q 2016?

15 A Couldn't be -- it couldn't no more than
16 three, because he got terminated somewhere around in
17 there.

18 Q Let's kind of work backwards.

19 A Okay.

20 Q Tell me about the incidents of kicking --
21 kicking in 2016.

22 A There's one incident somewhere around
23 January 2016, 22nd, somewhere in there. There's a
24 picnic table outside the shipping office right by
25 the gate. When it's warm weather, we would -- my

1 get me to take that shipping job.

2 Q Did you report it to anybody else?

3 A No, ma'am. Not outside of Gallatin, no,
4 ma'am.

5 Q All right. You said there were three. So
6 what are the other incidents in 2006? I mean, 2016.
7 I'm sorry. Thank you.

8 A I thought -- the other two was in the
9 shipping office, when I was doing the paperwork.

10 Q Are those the ones you already told me
11 about?

12 A Yes, ma'am.

13 Q Okay.

14 A I'm sorry. Yes, ma'am, that's the ones I
15 was talking about.

16 Q Okay. All right. So 2015. Tell me any of
17 the incidences you recall from 2015.

18 A In '15, I'm going to say that I probably
19 had, in the total of the ones in '15, probably three
20 of them were the kicks.

21 Q Okay.

22 A And the other ones were, that I haven't
23 discussed about him grabbing my privates, was the
24 backhand slap that he liked to do.

25 Q Okay.

1 A I know I told him about one of them, ma'am.

2 Q Okay.

3 A I can't tell you that I told him about all

4 three. I know I told him one of them.

5 Q And what was Larry's response? The same?

6 A He just shook his head. He just didn't say

7 nothing. He just said -- he just...

8 Q What about Keith Hall? How did he respond?

9 A There's the incident that happened in

10 Larry's office with Keith Hall in it and another

11 supervisor, Billy Eden. And Tommy Whited was in

12 there. And he punched me like with his fist in my

13 groin. Of course I dropped, and they all just

14 started laughing, thought it was funny and stuff.

15 I was at -- I was at the plant at that time.

16 They needed me over there to go over some shipping

17 stuff. I guess the response was getting laughed at.

18 Q Okay. So you didn't tell Keith Hall, I

19 don't -- you know, I'm being harassed or he's hurt

20 me, I want him to stop? Keith Hall --

21 A Not that particular time.

22 Q -- he witnessed it.

23 And was that one of the three times in 2015?

24 A Yes, ma'am.

25 Q Okay. Did you report any of those three

1 times in 2015 to anybody outside of Gallatin?

2 A Not outside of Gallatin, no, ma'am.

3 Q Okay. Did you report it to anybody else in
4 Gallatin?

5 A Michael White was a witness to a lot of
6 these incidents.

7 Q Okay. Is there anybody else you reported it
8 to, that you said, you know, he's doing this, he's
9 harassing me, he's hurting me, whatever it may, I
10 want it to stop, other than Larry?

11 A Just Tommy hisself. You know, I told Susan
12 Hart, Larry, and Michael White. Even Helen Kendall,
13 who was HR when I was there doing something, getting
14 paperwork, she knew me and she knew how I was being
15 treated. And of course, I thought she was HR. And
16 of course, she says, you know, I can't do nothing
17 about it. I was kin to him by marriage, and anybody
18 that says anything bad about him, Michael, he's
19 going to fire, and said, why do you think he's done
20 this for so many years. Because apparently it went
21 on long before I ever got there. That's what I was
22 told.

23 Q So Helen -- what exactly did you report to
24 Helen? One of these --

25 A Helen Kendall --

1 Q -- three incidents in 2015?

2 A I reported to Helen Kendall in 2015 that
3 Tommy multiply kicks me in my groins and cusses me
4 and calls me a stupid fucking Polak and all this.
5 And she just says, you know how he is, and that's
6 the only response I would get.

7 And so, I thought, well, okay, you're HR.
8 And Helen said, well, you know how he is, Michael.
9 Or they called me Kuli. I'm sorry. I did not
10 report it outside of Gallatin.

11 Q She said, though, I can't do anything about
12 it because I'm kin to him?

13 A Yes. And I'd get fired, just like anybody
14 else. Of course, she did tell me -- she just
15 retired here, I think before he got -- at her going
16 away party, she says, if you ever do anything about
17 this, please tell them to call me because I can tell
18 them all about it now. Once my retirement's in,
19 they can't take it back away from me.

20 Of course, in a way, I was happy she was
21 retiring, but I was thinking, well, you know, you
22 could have did something a long time ago, a lot of
23 this probably wouldn't have happened if you'd --
24 that's my opinion, nobody else's.

25 Q So, Mike White, was it one of these

1 drivers. He witnesses a whole lot of them. And
2 they witnessed them, too, in '15.

3 Q The slapping of the -- the backhanding of
4 the hand to the groin, did you report -- in 2015,
5 did you report that to anybody?

6 A Just to Larry. Larry is my top reporter
7 because I thought he was plant manager and could --
8 I just thought that's the highest you could go and
9 it could stop.

10 Q Did you report it outside of Gallatin?

11 A No, ma'am.

12 Q Okay. All right. Let's go back, then.
13 2014, how many of those are kicks and how
14 many of those are the backhand to the groin? You
15 said there were about 12 times in 2014.

16 A To be absolutely honest with you, I'm going
17 to say two kicks and the rest backhands.

18 Q Okay.

19 A They were actually probably done at the
20 tobacco end of the warehouse on the floor in front
21 of somebody or -- couldn't tell you exactly a person
22 because there were so many people working in the
23 tobacco stuff.

24 Q So you can't remember any specific incident,
25 you're just estimating that many times?

1 A Yes, ma'am.

2 Q All right. Did you report any of the two
3 kicks to anybody in 2014?

4 A I don't -- I can't honestly tell you I did,
5 ma'am.

6 Q Okay. What about any of the ten backhands?

7 A Only reporting I did about them then would
8 be to employees that have been there for 20 years or
9 more that I had respect for and stuff and asked
10 opinions of what to do. But as a boss or called
11 corporate or anything, I did not.

12 Q Okay. Who did you ask what you should do?

13 A Terry Stafford. Ken Buckmaster was in
14 maintenance for years and years. J.R. Sanders,
15 which actually threatened to kill me, just like
16 Tommy did, literally. And they said the best thing
17 you can do is shut your mouth because he's going to
18 continue doing it or you're going to get fired.

19 Q They all -- so what did Terry Stafford say?

20 A He said you best shut your mouth about it
21 and not say nothing to nobody or you'll use your job
22 because he'll fire you.

23 Q Okay. What did Ken Buckmaster say?

24 A He said, you need to go tell Larry about it.
25 I said, well, I have told him some. And he said,

1 guidance?

2 A I can't recall right off -- right now off
3 the top of my head.

4 Q And the backhanding to the groin, you never
5 reported that to anybody outside of Gallatin?

6 A No, ma'am.

7 Q Okay. All right. 2013. We've got, you
8 said, eight incidents. How many were kicks,
9 backhand to the groin? What are we talking about?

10 A I'm going to say probably one kick, which
11 would have been in the shipping office. Rest of
12 them would have been backhands.

13 Q Okay. In 2013, did you report that one
14 kicking incident to anybody?

15 A No, ma'am.

16 Q Okay. What about the seven backhanding to
17 the groin? Did you report those to anybody?

18 A I just told Michael White, I didn't
19 understand how he can get away with all this.

20 Q Was that in 2013 or --

21 A Yes, ma'am.

22 Q -- is that some other time?

23 A No. That was 2013.

24 Q Okay. And what did Mike White say?

25 A He said, you'll learn that if you say

1 anything or anything to try -- I can't say the word.
2 If you say anything bad about Tommy Whited, you'll
3 be fired or you'll be out the door for some kind of
4 reason.

5 Q Okay. Did you report it to anybody else
6 other than Mike White?

7 A No, ma'am.

8 Q Okay. What about 2012? You said there were
9 six incidents. Kick or backhand to the groin?

10 A Backhand, ma'am.

11 Q Okay.

12 A And I did not report them outside of
13 Gallatin.

14 Q Okay. Did you report any of those incidents
15 to anybody in Gallatin?

16 A No, ma'am. I was at the point I was just
17 scared, like wondering how this could happen.

18 Q Okay.

19 A No, I did not.

20 Q All right. 2011, you said there were seven
21 incidents. What are we dealing with there?

22 A Probably just all slaps.

23 Q Okay. Slaps to the groin?

24 A Yes, ma'am.

25 Q Okay. Did you report those to anybody in

1 2011?

2 A I'm not -- I can't honestly say I did.

3 Q Okay. Did you report it outside of
4 Gallatin?

5 A No, ma'am.

6 Q Okay. 2010, you've got five incidents.
7 What are those?

8 A Be slaps.

9 Q Okay. Did you -- slaps to the groin?

10 A Yes, ma'am, slaps to the groin.

11 Q Did you report those to anybody in 2010?

12 A No, ma'am. Just my -- people I work with
13 and which aren't nobody.

14 Q Okay. Did you report it outside of
15 Gallatin?

16 A No, ma'am.

17 Q 2009, you said there were three incidents.
18 What would those have been?

19 A They'd have been all just slaps to the
20 groin.

21 Q Okay.

22 A The real kicks didn't come until a bit later
23 and really got violent later on in years.

24 Q Okay. Did you report those slaps to the
25 groin to anybody --

1 A No, ma'am.

2 Q -- that took place in 2009?

3 A Not that I recall, ma'am, I did not.

4 Q Okay. Did you report it to anybody outside
5 of Gallatin?

6 A No, ma'am.

7 Q All right. The next thing -- well, I'm
8 going down the list. We had grabbed or squeezed
9 your balls, kicked from behind, fell to the ground.
10 There was another one, kicked so hard you flipped
11 over the desk. Is that the one we've already talked
12 about --

13 A Yes, ma'am, we talked --

14 Q -- where he came up behind and kicked you
15 and you kind of flipped over the desk?

16 A Yeah. I went all the way over.

17 Q Okay.

18 A There was two of them incidents, but yes, we
19 talked about both of them.

20 Q Okay. The next thing was he'd say suck his
21 dick, you stupid motherfucker. Now, we talked about
22 all the times that he said that with respect to
23 pulling down his pants. Were there other times that
24 he said suck my dick?

25 A His famous saying -- he would say it, but it

1 would be more a lot of times, he'd be walking by or
2 something with Susan and he'd say, you know, come
3 here and suck my dick, you stupid motherfucker.

4 And I'm sorry, y'all, I have to use this
5 language. My mama would kill me for it. I'm sorry.

6 Q Well, you use the term motherfucker at work,
7 don't you?

8 MS. COLLINS: Objection to form.

9 BY MS. DOHNER SMITH:

10 Q You do, too.

11 MS. COLLINS: Objection to form.

12 BY MS. DOHNER SMITH:

13 Q Right? If we're going to be honest, you use
14 the term fucker and motherfucker at work, don't you?

15 A I just don't want to be disrespectful to
16 women.

17 Q That's okay. I understand.

18 Do you use it on the floor at work?

19 A I've probably been known to cuss --

20 Q Okay.

21 A -- most time myself.

22 Q Is the F word one of the words you say when
23 you cuss?

24 A I kind of go down on myself about doing
25 something stupid.

1 Q Like you might yell out, oh, fuck, or
2 something like that?

3 A No, I won't scream out where people --

4 Q Okay.

5 A -- can hear me and I get in trouble. And I
6 won't say something in front of truck drivers or
7 women, no, I do not.

8 Q Okay.

9 A I do not do that.

10 Q Well, if other people report that you say --
11 that motherfucker is one of your phrases that you
12 use quite frequently in the workplace, how do you
13 respond to that?

14 MS. COLLINS: Objection to form.

15 THE WITNESS: It's not true.

16 BY MS. DOHNER SMITH:

17 Q Okay.

18 A That's not --

19 Q So what cuss words would you say in the
20 workplace?

21 A I mean, I've probably said dammit or shit or
22 something like that, I'm sure.

23 Q Okay. But you wouldn't -- you wouldn't cuss
24 in front of women? You'd try not to do that?

25 A Well, yeah, that's -- you have to be

1 careful. I think -- you know, I don't know what my
2 title really is. I'm supposed to be in management.
3 You're supposed to watch what you say.

4 You have to be careful in front of truck
5 drivers, even if they're male or female, about what
6 you say because, I mean, I could lose my job a lot
7 quicker than going through all of this, what we're
8 going. I mean, you know, one phone call, I could be
9 gone.

10 Q So that's external truck drivers. What
11 about other WestRock employees? Do you swear in
12 front of them?

13 A I'm sure I probably have.

14 Q Do you swear just in front of men or in
15 front of women, too?

16 A There's one woman there that uses some
17 strong language, a lot worse than I'd ever probably
18 use, but that's her normal talk.

19 Q Yeah, but I'm asking about you. Do you use
20 swear words in front of women as well as men?

21 A I've probably said dammit or shit or
22 something in front of a woman before, I'm sure.

23 Q Okay. Do you try not to swear in front of
24 women?

25 A I try my best not to, yes.

1 Q Why is that?

2 A Well, believe it or not, my mother is
3 77 years old, and I've got respect for her. And
4 it's just the language -- she does not like bad
5 language. My brother, we just buried him, he's
6 younger than me, last year, and it's out of respect
7 for -- respect for her. Or I probably would use a
8 lot worse language, you know.

9 At home, I'm not allowed to cuss because
10 you've got the grandkids and they'll pick up
11 something quick.

12 All of my guys would try to watch because
13 the tow motor is loud and it travels. You just
14 don't want to offend somebody and get in trouble,
15 because I've got some of the best tow motor drivers
16 there is out there at WestRock.

17 Q How many times has Tommy told you suck my
18 dick, stupid motherfucker, outside of the unzipping
19 of the pants incidents we've talked about?

20 A Over an eight-year period, I'm going to say
21 probably 40.

22 Q Okay. Did you ever report any of those to
23 anybody?

24 A No, I did not.

25 Q Okay.

1 A Most time people were standing there
2 listening, but that's just --

3 Q Did you report to anybody outside of
4 Gallatin?

5 A No, I did not.

6 Q The next thing that you had on your list was
7 he would say, you stay over so I can go home and
8 screw your wife or fuck your wife.

9 A Right.

10 Q When did that happen?

11 A Well, about a month before he left there, he
12 said that in front of the -- inside the shipping
13 office, said that in front of everybody, and it
14 really made me angry.

15 You know, all this stuff had gone on for
16 years now, whether who believes me or who doesn't
17 believe me, has made me lose a lot of my
18 self-esteem, and everything else, and made me feel
19 like that I'm not a man to my significant other.
20 And so when he said stuff like that, it really
21 bothered me. Still does bother me to think about
22 it.

23 Q So that would have been the summer of 2016
24 that he said it?

25 A It was shortly before he -- that was the

1 last time he said it, but he probably total did that
2 probably six times, seven times maybe.

3 Q Okay. When did he say it the other times?

4 A To be absolutely honest, probably maybe just
5 about once a year.

6 Q Okay. Did you ever report that to anybody?

7 A I just told him that I didn't like that at
8 all. That's the only person I reported it to was
9 him.

10 Q Okay. So you didn't report it outside of
11 Gallatin?

12 A No, I did not, ma'am.

13 Q All right. Anything else that Tommy Whited
14 did to -- oh, wait. We've got smack in the ass. We
15 had that as well.

16 When did he smack you in the ass?

17 A You know, to be absolutely honest, probably
18 three or four times a year in the past five years,
19 and I did not report it to -- outside of Gallatin or
20 to Larry either.

21 Q Okay. So you didn't report him smacking you
22 in the ass to anybody?

23 A No. No, I did not.

24 Q Okay.

25 A Just people that saw it, you know, just

1 laughed, thinks it's funny and stuff. You know,
2 just like him trying to run over me in his truck and
3 hit me in his truck, you know.

4 Q When did he try to run over you with his
5 truck?

6 A In 2015. Around out in the shipping office,
7 dock area, I have to go out there a lot, check on
8 what trailer is here, so on, so on, so on. But when
9 Tommy would be coming from the plant or coming from
10 whatever, he'd come around the building, and he
11 always turned around and looked down to see who's at
12 the dock area and I'd be out there. Well, he'd have
13 a brand-new Dodge truck. Well, he took off flying,
14 and go through the gate entrance and he'd slam on
15 the brakes.

16 But one time he hit me and he knocked me
17 about 35 foot across the parking lot. He made my
18 leg get a bruise probably from my hip down below my
19 knee and told me to go home. Sent me home
20 immediately for a few days with pay so I wouldn't
21 tell on him.

22 But he probably tried to run over me at
23 least 20-something times out in the parking lot,
24 with everybody -- with Donnie Taylor out there,
25 Tommy Davis, Willie White, Terry Stafford.

1 Q Do you think he was really trying to run you
2 down or was he like just kind of pretending that --

3 (Overlapping speech.)

4 A I think playing.

5 Q -- he was going to -- playing and then slam
6 on his brakes and --

7 A I actually think he was playing, but --

8 Q But one time he actually did run into you?

9 A Yes. It -- yes, and it knocked me and
10 scratched me all up.

11 Q When did that happen?

12 A That was 2015-something.

13 Q Do you remember the month?

14 A It was warm, so I'm going to say somewhere
15 around July or August.

16 Q Okay. Did you report that to anybody?

17 A No, ma'am. Just -- not outside of Gallatin,
18 nor in. I just -- you know, we say -- you know, or
19 I say, I think he was playing and this and that and
20 the other, but it still didn't feel good. None of
21 this feels good, you know.

22 Q Did anybody see him hit you with the truck?

23 A Donnie Taylor, Tommy Davis, Willie White. I
24 don't know if Terry Stafford was out there anyway,
25 but he's Tommy's best friend anyway. I don't know

1 home with a big old bruise and stuff.

2 Q So he'd come up behind you with a stick and
3 hit you in the knee to pop your knee?

4 A He'd hit me in the head or anything with the
5 stick. But he was real bad about Charley horsing me
6 with his knee. He's throwed his hard hat at me.

7 Q So any other -- so you've told me this
8 happened like three times in 2013, four to five
9 times in 2014, six times in 2015. Any other times?

10 A I can't remember about how many in '16. As
11 years went, on toward the end there, he was getting,
12 I don't know if it's the word, but he was getting
13 more violent or more -- hurting me a lot more than
14 what -- whoever wants to say it was playing or
15 whatever, I didn't feel like it. It was getting a
16 lot worse.

17 Q So any of these incidents where he punched
18 you in the eye or the jaw with his fist or hit you
19 with sticks or did the Charley horse type thing,
20 threw his hard hat at you, did you report any of
21 that to anybody outside of Gallatin?

22 A Not outside of Gallatin. Just to the
23 management at WestRock here.

24 Q Okay. So which incident did you report and
25 to who? We've got three incidents in 2013 where he

1 hit you with sticks, four to five where he hit you
2 with sticks in 2014, six times where he hit you in
3 2015. And how many times do you think in 2016?

4 A I'm just going to say a couple in '16,
5 because these dates are finally just dwelling in my
6 head where I'm getting confused.

7 Q Do you want to take a quick break?

8 A Well, I want to try to -- I know you don't
9 feel good, so I want to try to --

10 Q Don't -- don't worry about me. This is my
11 job. I get paid to be here. I appreciate your
12 concern, though.

13 If you need a break, I would like you to
14 take a break.

15 A I could use one for a minute, please.

16 MS. DOHNER SMITH: All right. Let's go
17 ahead and take a break, then.

18 VIDEOGRAPHER: We are going off the
19 record. The time on the monitor is 2:11 p.m.

20 (Recess observed.)

21 VIDEOGRAPHER: We are back on the
22 record. The time on the monitor is 2:23 p.m.

23 BY MS. DOHNER SMITH:

24 Q So, we were talking about the punching in
25 the eye or the jaw or hitting with sticks. You

1 never reported any of those incidents to anybody
2 outside of Gallatin; is that correct?

3 A No, I did not.

4 Q Did you report any of those to anybody
5 inside of Gallatin?

6 A I can't honestly say that I went directly to
7 Larry to tell him, you know, hey, he punched me in
8 the face. I can't honestly say I did.

9 Q Okay. Is there anything else that Tommy did
10 to harass you, hurt you in any way?

11 A He just took all my self-esteem, everything,
12 you know, took all that away from me. But as far as
13 physically, no, ma'am.

14 Q Well, any other -- any other actions on his
15 part?

16 A No, ma'am.

17 Q Okay.

18 A I shouldn't have said what I said. I'm
19 sorry.

20 Q All right.

21 A I've been trying to remember everything I
22 can.

23 Q And I appreciate that.

24 Did Tommy do any of these things to any
25 other people?

1 know how to answer it.

2 Q Okay.

3 A I'm not being mean. I'm just saying, I
4 don't understand why he did it and still don't, and
5 it's bothered me for years, and that's why I see
6 counseling now. I'm trying to cope with life.

7 Q Do you think he did it because he didn't
8 think you were manly enough?

9 MS. COLLINS: Objection to form.

10 THE WITNESS: I don't know.

11 BY MS. DOHNER SMITH:

12 Q Okay.

13 A I don't know. I would not hit him back.
14 But, of course, you know, he was general manager,
15 you know. I wanted my job. Of course I'm not going
16 to.

17 Q Did Tommy ever say or do anything that led
18 you to believe that he didn't think men should be
19 working at WestRock?

20 A No. But he made comments about there's not
21 enough women.

22 Q Tell me about that.

23 A When the tobacco contract went away that
24 second time and we all knowed that he was the main
25 reason we lost it and it wasn't ever going to come

1 back, he said, well, now we're never going to have
2 any fresh pussy or anything like that in here. Of
3 course, he used to try to --

4 Q So, by fresh pussy, he was referring to
5 female -- new women in the workplace?

6 A New women, yes. Just like Susan Hart. Her
7 breasts were real big, and he used to say, watch
8 this, Kuli. And he'd holler at her and try to get
9 her to run across the floor. Of course, they were
10 real big, of course, and they'd bounce. I wouldn't
11 look, wouldn't do anything, because I didn't want to
12 get in trouble because I just knew that was a setup
13 or whatever.

14 But he did like women, and he liked all
15 women, young. A lot of women got raises there; a
16 lot of men didn't. Don't know -- I'm not
17 insinuating anything they did to get them or
18 anything. I'm just saying that the women could get
19 raises before men could.

20 Q Well, what is it about you personally that
21 led Tommy to harass you?

22 MS. COLLINS: Objection to form.

23 BY MS. DOHNER SMITH:

24 Q What do you think it is?

25 A He knows he terrified me. This is hearsay,

1 touch my privates or hit me in the privates or grab
2 my privates in any kind of way to me is sexual --
3 whether it's a male or a female doing it to me.

4 BY MS. DOHNER SMITH:

5 Q Okay. And when did you first have that
6 belief?

7 A When did I first have that belief?

8 Q Uh-huh.

9 A Well, I've really always had that belief.
10 You know, give respect. I guess I was -- I guess I
11 was brought up -- my mother and father were good
12 people. My mother still is. But I wasn't brought
13 up to go up and grab a woman on the behind or grab
14 her boobs or grab anything like that or -- I mean,
15 to me, that's sexual harassment. So whether it's a
16 man or a female, whatever.

17 Q Okay. Now, the first time you told anybody
18 outside of Gallatin about the stuff Tommy was doing
19 to you was in August 2016; is that correct?

20 A I'd have to -- I'd have to look back. I
21 wrote down somewhere where Terri, whatever, called
22 the work phone I had and started asking me
23 questions. That's the first time.

24 Q Okay.

25 A I honestly can't tell you the exact date it

1 was.

2 Q So you took notes when Terri called you?

3 A I wrote down, it had it on there, yes, that
4 she called. She called the work phone.

5 Q Okay.

6 A And she started asking me all these
7 questions, said somebody told her to call and
8 started asking questions. I'm like --

9 Q Were you taking notes, though, during the
10 call? Did you -- were you taking notes yourself?

11 A No.

12 Q Okay.

13 MS. DOHNER SMITH: Do you want to
14 change it now?

15 VIDEOGRAPHER: This marks the end of
16 Disk 2 of the video deposition of Michael
17 Kulakowski. We off the record. The time on the
18 monitor is 2:46 p.m.

19 (Recess observed.)

20 VIDEOGRAPHER: We are on the record.
21 The time on the monitor is 2:49 p.m. This marks the
22 beginning of Disk 3 of the video deposition of
23 Michael Kulakowski.

24 BY MS. DOHNER SMITH:

25 Q Mr. Kulakowski, you're still under oath.

1 A Yes, ma'am.

2 Q You understand that?

3 Do you have anything from your previous
4 testimony that you need to change or revise?

5 A No, ma'am.

6 Q I think right before we changed tapes, I was
7 just confused, because --

8 A Okay.

9 Q -- I had asked you if Terri called you in
10 August of 2016, and you had referenced some notes.

11 So, did you take any notes, write any notes
12 when you spoke with Terri Henley?

13 A I wrote down that she called, the day she
14 called, or whatever.

15 Q Okay. Where did you write down the date
16 that she called?

17 A On some little piece of paper or something
18 that she called, she started asking questions about
19 Tommy. That's all I had -- I didn't -- it was on
20 like a napkin or something, because I was outside.
21 I didn't know who was calling or anything. But
22 it --

23 (Overlapping speech.)

24 Q Okay. Where were you --

25 A -- was the only note I had.

1 Q Sorry. Where were you when she called you?

2 A At my home. We just -- I think we got back
3 that day or the day before that from vacation.

4 Q Do you have any reason to dispute that that
5 took place in August of 2016 is when she called you?

6 A I don't -- no. I don't have a reason to
7 dispute it.

8 Q Okay.

9 A We usually take vacation in August,
10 September, October, because, you know, cheapest --
11 you know, when you can get stuff cheaper. No, I'm
12 not going to dispute that.

13 Q Where did you go on vacation?

14 A I think that was the year that we took
15 20 grandkids to Florida.

16 Q Wow.

17 A Five families or whatever, rented one of
18 them houses. Of course, I think there was 22 kids,
19 I think.

20 Q Holy cow. That's -- that takes a lot of
21 nerve.

22 A It won't ever -- it won't ever happen again.

23 Q Terri called you, right? You didn't seek
24 her out; she came to you?

25 A She called me and said that somebody --

1 somebody called her for something and told her they
2 need to call Kuli and ask him about what Tommy does
3 to him and all that. I think that's how -- I'm -- I
4 don't want to tell you any kind of lie, but I think
5 that's how she phrased it to me.

6 Q Okay.

7 A And I said, I really don't want to get
8 involved or say anything because I don't want to get
9 fired. And she says, well, I need to know if
10 something has been happening. And we talked for a
11 while. You know, when I say a while, I'm saying
12 40 minutes or so or something. So I just started
13 telling her.

14 Q Okay. Now, you had more than one
15 conversation with Terri, correct? You had the
16 initial telephone call?

17 A I had that telephone call, and then that
18 conference room thing.

19 Q Okay. Was it the same day that you came in
20 and talked with her in the conference room?

21 A That she called me?

22 Q Uh-huh.

23 A No. I think when she called me, I think --
24 I don't know -- I think she was somewhere near -- I
25 think she'd been to Gallatin, but I wasn't back.

1 as something I didn't say.

2 Q Okay.

3 A I mean, that's...

4 MS. COLLINS: Go ahead and mark that as
5 Number 8.

6 (Marked Exhibit No. 8.)

7 BY MS. DOHNER SMITH:

8 Q Where it talks -- in here it says, grab a
9 zipper, asking him to come into the bathroom. Did
10 you tell Terri Henley that Tommy Whited had, when he
11 was doing that, exposed himself and said suck my
12 dick?

13 A No, I didn't tell -- I was scared of Terri.

14 Q Okay. So what did you tell her about the
15 zipper incident and grabbing a zipper?

16 A You know, I don't even think most of this
17 stuff come in the phone call. That's when we was in
18 the room when I talked about the zipper and stuff.
19 But I was still scared to say anything --

20 Q Okay.

21 A -- knowing that they're right next to me.
22 You know, I -- it took a lot for me to come out with
23 what I've come out with. And it's truth, but it's
24 just took a lot for me to get the courage up to do
25 what I've done so far.

1 Q Well, did Terri -- did you ever tell Terri
2 when you were sitting there face to face with her
3 that Tommy had exposed his penis to you and said
4 suck my dick?

5 A I don't think I did.

6 Q Okay.

7 A I don't recall it, me doing that. Like I
8 said, when that Tom Pedine gentleman come in and
9 said that, the conversation was over with in my
10 book.

11 Q Okay. Did you ever tell Terri that Tommy
12 had exposed his penis to you?

13 A I don't -- I don't remember or recall
14 telling her. I told her a lot on the phone, but I
15 can't honestly say that I told her that or not. I
16 can't honestly say I did.

17 Q Okay.

18 A And I'm sorry, I don't recall that.

19 Q So it says on here, "Grab a zipper, asking
20 him to come to the bathroom to do this; shake his
21 pants."

22 What did you tell Terri about that?

23 A I must have told her what she's got printed
24 here, ma'am, you know. Like I said, Terri -- I
25 ain't seen Terri maybe three times in twelve years.

1 It looks like you went through some very specific
2 instances with her of things that Tommy did to you.
3 Is there anything else that you think you told her
4 that she failed to put in here?

5 A I just -- I thought I told her more
6 incidents about kicking in the balls and stuff, but
7 I don't see it.

8 Q Okay. Is there anything that you would have
9 told her about that you haven't told me today?

10 A I don't think so, ma'am.

11 Q Okay.

12 A I'm trying to hold it together the best I
13 can.

14 Q Is your back hurting you?

15 A Bad.

16 Q I'm sorry. We're both kind of in a mess
17 today, aren't we?

18 A Yes, we are. That's why I said, though,
19 y'all can't call in sick or nothing.

20 Q That's true.

21 All right. So Terri called you on the phone
22 first.

23 A Yes, ma'am.

24 Q Tell me everything you remember telling her
25 during the phone call.

1 A I remember I was very hesitant about
2 speaking to her. At first I said, Terri who? And
3 she says, well, I've been there before. We've met
4 down there at the conference room, and so on.
5 Anyway, I'm trying to think who she said told her to
6 call me.

7 Anyway, I said, Terri -- Ms. Terri, I said,
8 I'm really hesitant about saying a word. I said,
9 I'm scared to death to say anything about anything
10 and it go right back to Tommy, and then I'll not
11 have a job when I go back from vacation.

12 Anyway, she kept talking to me and getting
13 me to -- if I remember correctly, getting me to calm
14 down. And finally, I said, you sure you want me to
15 tell you? And she said, yes, I do, please. She was
16 real polite to me and everything.

17 And then finally, I opened up and I started
18 telling her things that I'd been through. I could
19 have sworn that she was -- that she was in town to
20 come by there to see me, but she didn't know I was
21 on vacation. And I'm thinking she came back pretty
22 quick.

23 But I told her -- we was on -- I know we was
24 on the phone at least 30 minutes or so. I told her
25 a lot.

1 Q Did you tell her on the phone call that he
2 had kicked you in the groin?

3 A I'm pretty sure I did.

4 Q Okay. Did you tell her that he had hit you
5 in the groin?

6 A I'm pretty -- I'm pretty sure, almost
7 positive that I did.

8 Q Did you tell her on the phone about the
9 bathroom incidents?

10 A I know I told her about the zipper and
11 stuff, but I don't think I -- I think I was scared
12 to sit there and tell her detail like we've
13 discussed here.

14 Q Okay.

15 A I was still hesitant about coming out with
16 everything because I was still scared about what was
17 going to happen when we got back to work, because I
18 know how the conference room is there, and how
19 everybody knows how if you go in the conference
20 room, whose office is next to it and who sits in
21 there all the time. So, I mean, I told her a lot,
22 but I was scared to tell her everything yet.

23 Q Okay.

24 A I guess that's the best way to phrase it.
25 I'm sorry.

1 things to. So, I mean, I thought Larry is who I'm
2 supposed to report to, so that's who I reported it
3 to.

4 Q Is there anybody other than Larry, that
5 four months ago when Tommy showed you this pistol in
6 the parking lot, anybody else that you told about
7 that?

8 A I guess not.

9 Q Did you call Terri Henley and tell her about
10 it?

11 A I don't think so.

12 Q Did you call the corporate hotline and make
13 a report that way?

14 A Not that I know of.

15 Q Okay. What specifically did you tell Larry?

16 A Told him I was down at the store getting
17 gas, whatever, and Tommy getting gas, or whatever he
18 was doing, pulling a pistol out of a holster, and
19 put it back in there and set it -- put it back up
20 under his seat or put it somewhere in his console or
21 whatever. I didn't stay around there to hang out to
22 find out.

23 Q Okay.

24 A You know, everybody knows he's done made
25 statements he's going to kill me. Told them a

1 I'm been trying to take care of my back.

2 Q Okay. You don't know when she --

3 (Overlapping speech.)

4 A I was told she wasn't working there anymore,
5 is all I was told.

6 Q Do you have any evidence that she was fired?

7 A No. I don't -- I mean, she could have got
8 another job for all I know.

9 Q Okay. So the only one that we know was
10 fired after all of this is Tommy Whited, correct?

11 A Correct.

12 Q Earlier you were referencing your notes that
13 you have at home. Are these your notes of incidents
14 that you wrote down?

15 A Yes, ma'am.

16 MS. DOHNER SMITH: We'll go ahead and
17 mark those as Number 9.

18 (Marked Exhibit No. 9.)

19 BY MS. DOHNER SMITH:

20 Q Did you give a copy of these to Terri during
21 the meeting that you had with her?

22 A I think that's where they came from.

23 Q Do you have any evidence to suggest that any
24 higher-ups at WestRock instructed Tommy to hit you
25 in the groin?

1 A No, I don't have any evidence like that.

2 Q Do you have any evidence to suggest that
3 higher-ups at WestRock told Tommy to kick you in the
4 groin?

5 A No, I don't have any evidence of that.

6 Q Do you have any evidence to suggest that any
7 of the higher-ups instructed Tommy to do any of the
8 bad things that he did to you?

9 A I don't have any evidence to that.

10 Q Do you have any evidence to suggest that it
11 was part of Tommy's job duties to do these things,
12 everything that we've run through today, these bad
13 things he did to you, that that was part of his job?

14 A I wouldn't -- I don't have any evidence that
15 that was part of his job.

16 Q In fact, the stuff he was doing to you was
17 against company policy, correct?

18 A Yes, ma'am.

19 Q Did these bad things that Tommy did to you
20 serve the company in any way, benefit the company in
21 any way?

22 MS. COLLINS: Objection to form.

23 THE WITNESS: I don't guess so, ma'am.

24 BY MS. DOHNER SMITH:

25 Q Did any of these bad things that Tommy did

1 to you help the company make money in any way?

2 A I wouldn't think so, ma'am.

3 Q Did any of these bad things that Tommy did
4 to you help production at the facility in any way?

5 A I wouldn't phrase it like that. I mean, I
6 do everything I could to make things happen where
7 the company would make money.

8 Q But him doing these bad things, that didn't
9 better the company.

10 A No, ma'am.

11 Q Okay. Was Tommy Whited, when he was doing
12 these things, serving the company in any way?

13 A I wouldn't think so, ma'am.

14 Q Do you have any evidence to suggest that
15 WestRock expected Tommy to do these bad things to
16 you --

17 MS. COLLINS: Objection to form.

18 BY MS. DOHNER SMITH:

19 Q -- while he was employed there?

20 A No, ma'am, I don't.

21 Q Do you have any evidence to show that the
22 higher-ups at WestRock authorized Tommy to do these
23 things to you?

24 A No, I do not.

25 MS. COLLINS: Objection to form.

1 BY MS. DOHNER SMITH:

2 Q All of these bad things that Tommy did to
3 you, were you physically at the WestRock facility
4 when he did those? I think we went through them,
5 you were either in the shipping office or --

6 A Yes, ma'am.

7 Q So this all happened while you were at work?

8 A Yes, ma'am.

9 Q And it happened during your working hours?

10 A Yes, ma'am.

11 Q And it happened while you were actually
12 performing your work?

13 A Yes, ma'am.

14 Q Do you think any of the higher-ups at
15 WestRock actually intended for Tommy to be doing
16 these bad things to you?

17 A No, ma'am.

18 MS. COLLINS: Objection to form.

19 BY MS. DOHNER SMITH:

20 Q What was your answer?

21 A No, ma'am.

22 Q Do you think any of the higher-ups at
23 WestRock actually intended for Tommy to cause you
24 injury?

25 MS. COLLINS: Objection to form. Calls

1 for speculation.

2 BY MS. DOHNER SMITH:

3 Q Answer, if you know.

4 A No, ma'am.

5 Q Do you want to take a break and walk around
6 outside a little bit? You're kind of moving around
7 a little.

8 A Yeah. I'm hurting real, real bad.

9 MS. DOHNER SMITH: Okay. Let's take a
10 break and give you a bit of a rest.

11 VIDEOGRAPHER: We're going off the
12 record. The time on the monitor is 3:45 p.m.

13 (Recess observed.)

14 VIDEOGRAPHER: We are back on the
15 record. The time on the monitor is 3:57 p.m.

16 BY MS. DOHNER SMITH:

17 Q Mr. Kulakowski, I'll remind you that you're
18 still under oath.

19 A Yes, ma'am.

20 Q Is there anything from your previous
21 testimony that you need to change or revise?

22 A No, ma'am.

23 Q Now, at WestRock, you're required to punch
24 in and out when you come to work and leave work,
25 correct?

1 were produced to us, so if you have them, we would
2 like to get those.

3 BY MS. DOHNER SMITH:

4 Q Do you punch in and out every time that you
5 come to work?

6 A I do now, yeah.

7 Q Okay. Did you always?

8 A No. Years ago I used to come in and load a
9 truck real quick and shoot on back home.

10 Q When was that?

11 A Or take a lock off. I don't know, ten years
12 ago maybe.

13 Q Okay.

14 A Maybe one of my drivers left the lock on the
15 glad handle where a driver couldn't hook his air
16 brake line up, and I would drive down and take it
17 off and leave.

18 Q All right.

19 A I mean, that -- yeah, I know you're supposed
20 to get paid four hours, but one of my guys went and
21 left the lock on, so I felt responsible for that one
22 or whatever, so...

23 Or I'd drive down sometimes if somebody
24 didn't have a key to get in the building that needed
25 to work, and I'd drive down and let them in. I

1 didn't keep all of them notes all these years, no, I
2 did not.

3 Q So when -- how many times -- anything within
4 the last four years where you went back to work and
5 didn't punch in.

6 A I don't recall any.

7 Q You don't recall any incidents in the last
8 four years?

9 A Not going back doing a truck or anything
10 without being on the clock, I don't recall that in
11 the last four years.

12 Q Okay. So in the last four years, every time
13 you've gone back, you've punched in?

14 A I think so, ma'am.

15 Q Okay. During the last four years, have
16 there been any days where you went to work and
17 didn't punch in and didn't get paid?

18 A Not that I know of.

19 Q Do you have any reason to believe that the
20 company's time records, where you swipe in and out,
21 are not accurate?

22 A I mean, the time clock messes up, it's a new
23 time clock, or whatever, I don't know, hasn't been
24 there a couple of years, I don't think, but it's got
25 a thing that says on or off. Sometimes it messes

1 up, but that's why you saw that double click in
2 there again. You have to hit it again or whatever.

3 Q All right. So if it messes up, you just
4 reswipe --

5 A It says on or out -- says in instead of out.
6 Just do it real quick, and then explain to the boss
7 why it's twice or whatever.

8 Q Okay.

9 A We always had a time clock, but this is one
10 of these new -- I think the new one goes straight to
11 corporate or something.

12 Q Okay. In the last four years, have you ever
13 been instructed by anyone in management not to clock
14 in when you come to work?

15 A Not that I recall.

16 Q And you're aware that you're supposed to
17 clock in and out whenever you come to and leave
18 work?

19 A Yes.

20 Q Did you ever choose not to clock in when you
21 came to work over the last four years?

22 A For?

23 Q Like, have you come in and just not clocked
24 in and went to work?

25 A Not on purpose, I don't guess I would.

1 Q Okay. And if you forgot to clock in, you
2 would tell your manager?

3 A Yeah, you'd tell them. Or they would tell
4 you when they went to prove it did you forget to
5 clock in or did you whatever.

6 Q Okay.

7 A Because once it messes up, if they don't
8 find it until then, it throws everything off, is the
9 way I was explained.

10 Q Okay. Has there been an incident over the
11 last four years that you ever forgot to clock in and
12 it had to be corrected for you?

13 A I'm sure that -- I don't remember exactly
14 when, but I'm sure that I've called and told them,
15 yeah, the clock wasn't working or whatever. Like
16 the electricity and stuff has messed it up before,
17 and they asked us, you know, what time we got there
18 and stuff because the clock wouldn't work.

19 Q When that happened, did they put your time
20 in and you got paid for the time that you were
21 working?

22 A Yes.

23 Q Okay. Was there ever a time where you
24 didn't get paid?

25 A Not that I recall.

1 Q Okay. During the last four years, have you
2 ever worked off the clock at WestRock?

3 A I've probably clocked out and then turned
4 around and had to come back and take a lock off or
5 something or do something real quick.

6 Q Can you remember any instances of that in
7 the last four years?

8 A No, ma'am, I can't hardly recall hardly
9 anything at the moment. I'm sorry.

10 Q Would anything help you remember?

11 A I don't recall any particular one right now.

12 Q Okay.

13 A I'm just about burnt out at the moment.

14 Q Would that be a situation where you were
15 leaving work and you realized a lock was left on, so
16 you just turned around quick, went back --

17 (Overlapping speech.)

18 A Or something. I went back --

19 Q -- undid it and --

20 A -- or took the lock off the trailer so the
21 driver could get it 4:00 in the morning in case we
22 wasn't there, something like that.

23 Q Okay. How long would that take typically?
24 Less than five minutes to walk in, take off the
25 lock?

1 A Eight, nine, at the most, if you had to go
2 out and do the trailer, this, that, and the other.

3 Q Okay. But you can't remember any specific
4 time over the last four years you've had to do that?

5 A Not any specific -- no, I can't remember a
6 date and all that. No, I cannot.

7 Q Okay.

8 A The phone calls with the truck drivers, they
9 don't last long. I mean, they might wake me up or
10 something.

11 Q Okay. So let's talk about that.

12 When did you receive a company cell phone?

13 A I used mine for a few years, and I can't
14 remember how long it's been. I've had a company
15 cell phone for, I don't know, nine years maybe.

16 Q Okay.

17 A I'm not 100 percent positive.

18 Q Who gave you the cell phone?

19 A I guess Tommy Whited would have had to prove
20 it.

21 Q Okay. Do you know who physically gave it to
22 you?

23 A Probably Susan Hart.

24 Q Did she tell you why you were getting a
25 phone or what you were supposed to do with it?

1 A Because all the truck driving scheduling and
2 all that. I was using my own cell phone at that
3 time.

4 Q So it was so the truck drivers could call
5 you?

6 A Yes. Schedule trucks, trucks coming in.
7 Where they're going to put trucks if nobody is
8 there, you know, because we didn't have a second and
9 third shift in shipping. We had first. Where to
10 put the trailer if one's ready, so on, so on.

11 Q Okay. So let's kind of limit this to the
12 last four years. How often do you receive a call on
13 your cell phone after hours?

14 A Eight times a week maybe.

15 Q Eight times a week? And how long are these
16 calls, typically?

17 A Three, four minutes. Then I might have to
18 make a call to somebody else, and then call them
19 back. Sometimes has to make multiple calls to solve
20 the problem or whatever. Hadn't been any the last
21 month because I've been out, trying to get my -- get
22 back to work, my back taken care of.

23 Q Is that pretty consistent, where it's eight
24 times a week you get a call that lasts for three to
25 four minutes?

1 A Yeah. That's pretty consistent, yes.

2 Q Okay. Was there ever a time that it was
3 less than that?

4 A I'm sure sometimes it is. You know,
5 sometimes I get them on the weekend, voice mails
6 or -- you know, it's nowhere near as bad now that
7 the tobacco contract is gone. With the GE, you
8 know, things have gotten better.

9 Q When did the tobacco contract leave?

10 A I think -- I think they finally left
11 two-and-a-half years ago, I think.

12 Q Okay.

13 A They left --

14 Q So was the eight times a week back when the
15 tobacco?

16 A A lot of times when tobacco was here and
17 stuff, it was probably more than that.

18 Q Okay.

19 A I want to say four to eight times a week.
20 When I'm in the shipping office working, I still --
21 that still happens, even -- and it doesn't take
22 long, but I've been at church before and I get a
23 call. Of course I had it on vibrate. Check it when
24 I come out. But if I can solve the problem, instead
25 of driving hour and ten minutes, I'm going to do it

1 on the phone instead of --

2 Q Okay. So, when the tobacco contract was
3 there prior to two-and-a-half years ago, you'd get
4 about eight calls a week. Since then it's four to
5 eight calls a week?

6 A No. Back then, a lot of times it was three
7 to four a night.

8 Q Okay.

9 A Now it's probably four to six a week.

10 Q Okay. So for the last two-and-a-half years,
11 it's four to six calls a week?

12 A Week.

13 Q Okay. And the calls are two to three -- or
14 three to four minutes long.

15 A Something like that. You know, I think
16 there was one incident that took me about an hour
17 and ten minutes to get the problem solved, me and
18 Larry and Susan Hart, get a driver in there. Of
19 course, I solved it. I did it.

20 Q Any other specific incidents where it took
21 you longer than three to four minutes to handle the
22 problem?

23 A Most of them doesn't. Most times I can
24 handle it pretty quick.

25 Q Okay. Do you recall any incidents other

1 than the one incident where it took an hour and
2 ten minutes, where it took you any substantial
3 amount of time?

4 A Not right off the top of my head, ma'am.

5 Q Would anything help you remember?

6 A I mean, I don't recall.

7 Q All right. When was the incident that it
8 took you an hour and ten minutes to fix?

9 A I think it was -- I think it was a year ago.
10 I think it was on a Sunday. General Electric had to
11 have a truck shipped out and didn't have a driver.
12 I had a lot of contacts. Took me a few phone calls
13 and some begging and owing some favors to finally
14 get a trucking company to take care of it for me.

15 Q But you think it was sometime in 2016?

16 A Yes, ma'am.

17 Q Okay. And you can't remember any other
18 incidents where it was longer than a three- or
19 four-minute call?

20 A I can't recall any, ma'am.

21 Q Okay. Did anybody tell you not to record
22 this time when you're taking calls?

23 A Did anybody tell me what?

24 Q Did anybody in management tell you that you
25 shouldn't record the time when you're taking calls

1 after hours?

2 A I don't guess they told me not to -- you're
3 talking about not to document them?

4 Q Yeah.

5 A No, they didn't tell me -- you know, they
6 wasn't going to pay me for them. I've asked a
7 thousand times.

8 Q Who did you ask to get paid for it?

9 A I asked Larry, running paperwork over used
10 to get paid 27 cents a mile to take the log,
11 shipping log -- whatever fulfillment ships and
12 receives in that day, next morning I do a log on it,
13 and I have to -- it goes to the plant the next
14 morning, and we have to check it off. Okay?

15 Well, a lot of times it has to be over there
16 by a certain time and I run it over there in my own
17 vehicle, a lot of times. Along years ago, you used
18 to get paid so many -- like six miles there,
19 six miles back. And I've done like four trips in a
20 day and asked to get paid anything for it and don't.

21 Q Are you punched in when you're making those
22 trips?

23 A Yes.

24 Q Okay. So you're getting paid for the work
25 time. I'm asking about the times that you were

1 A I don't know how to answer that. I don't
2 know.

3 Q Okay. Do you believe the company owes you
4 some sort of backpay money?

5 A Yes.

6 Q Okay. For what?

7 A For years of service doing off the clock.

8 Q Okay.

9 A Telephone calls, coming down doing things
10 extra, all of that.

11 Q What we just spoke about -- or what we just
12 spoke about?

13 A Yes.

14 Q Okay. I saw somewhere that you had
15 estimated 400 hours. What time period does that
16 cover?

17 A Probably right at 11 years.

18 Q Okay.

19 A I actually think it was more than that, but
20 that would be all right.

21 Q So it's 400 hours over 11 years? Is that
22 correct?

23 A Yes.

24 Q How much over the last four years, then?

25 A I'd have to estimate 100 hours.

1 Q All right.

2 A I'm curious why we go four years -- instead
3 of four years, I don't go to twelve years, the time
4 I've been there. That's what I'm -- that's my
5 question.

6 Q In your Complaint you allege that you've
7 suffered emotional pain and suffering, professional
8 and personal embarrassment, humiliation, loss of
9 enjoyment of life, inconvenience, and lost earnings.

10 Describe to me how you believe you have been
11 emotionally damaged.

12 A Are you serious?

13 Q Yes. Do you have any sort of physical
14 manifestations of emotional damage or emotional
15 distress?

16 MS. COLLINS: Objection to form.

17 THE WITNESS: How about just sit and
18 shake, scared. You hear a noise, you turn your
19 head. You can't sleep, you can't move, you can't
20 even walk through the house without thinking there's
21 somebody fixing to jump out at you.

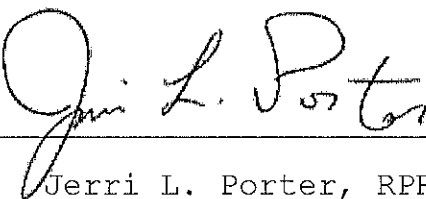
22 How about you can't walk outside
23 without wanting to take a flashlight and look around
24 to make sure somebody is not fixing to put a cap in
25 you.

REPORTER'S CERTIFICATE

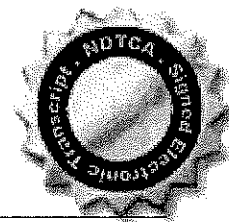
I, Jerri L. Porter, RPR, CRR, Notary Public and Court Reporter, do hereby certify that I recorded to the best of my skill and ability by machine shorthand all the proceedings in the foregoing transcript, and that said transcript is a true, accurate, and complete transcript to the best of my ability.

I further certify that I am not an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

SIGNED this 17th day of November, 2017.



Jerri L. Porter, RPR, CRR



My Notary commission expires: 2/19/2018

Tennessee LCR No. 335
Expires: 6/30/2018